



## **500.43 Use of Confidential Informants**

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### **POLICY**

The Hendry County Sheriff's Office will vigorously investigate all crimes using whatever legal, ethical, and reasonable investigative methods available. Informants may be critical to the success of these investigations if the informants are properly used and controlled. The informant's unique role in an investigation requires deputies to be ever vigilant as to the actions of the informants in accordance with Florida Statute 914.28.

### **PROCEDURE**

#### **A. Documentation**

1. For the purposes of this document, a confidential informant is any person who, by reason of his or her familiarity or close association with suspected or actual criminals can;
  - a. make a controlled buy or controlled sale of contraband, controlled substances, or other items material to a criminal investigation; or
  - b. can or does supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
  - c. can otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts; or through such efforts,
  - d. seek to improve his or her status in the criminal justice system.
2. Agency members (both patrol and investigative personnel) shall obtain supervisory approval (sergeant or above) prior to using any person as a confidential informant. All informants shall be documented and included in a master file maintained by the Vice and Narcotics Unit. Information required for informant documentation shall be on the Confidential Source Packet: 500.43-01 which include the following:
  - a. The informant's full name, date of birth, race and sex, current residence and business address and contact numbers (e.g. home, cellular, or pager numbers), descriptive information, social security number, driver's license number, and place of birth.
  - b. The tag number and description of any vehicles owned or routinely used by the informant.
  - c. Any probation, parole, or community control status of the informant. If the informant is on probation, parole, or community control, he/she cannot

be used as an informant without express approval of the appropriate judicial or probation official. This approval shall be documented and will include the name of the judicial officer or other official contacted when approval was sought.

- d. A current photograph of the informant.
- e. Local, state, and national criminal history of the informant.
- f. The informant's signature.
- g. Confidential Informant Control Number master name inquiry.
- h. Confidential informant debriefing report will be included with the informant file and updated as needed.
- i. Acknowledgment by the informant of his/her role regarding investigations, relationship with law enforcement officers, and his/her expected behavior in the capacity of an informant including, but not limited to (Confidential Informant Agreement):
  - 1. The informant is not an agency employee.
  - 2. The informant does not identify him/herself as an agency employee.
  - 3. The informant is not authorized by this agency to carry firearms or weapons.
  - 4. The informant is not to furnish case information to other agencies or persons.
  - 5. The informant is expected to follow the lawful directions of the agency and its members.
  - 6. The informant cannot be promised any inducements by our Agency, such as a grant of immunity, dropped or reduced charges, reduced sentences or placement on probation, in exchange for serving as a confidential informant.
  - 7. The informant has been informed that the value of his or her assistance as a confidential informant and any effect that assistance may have on pending criminal matters can be determined only by the appropriate legal authority.
- j. Background information as to other agencies or personnel for whom the informant has previously worked as an informant.
- k. Current status of the informant as to any outstanding warrants or capias.
- l. Whether the informant agrees to testify in court if needed. The controlling agent will have the informant "cleared to testify" by an assistant state attorney.
- m. Notify the informant that the informant has the right and an opportunity to consult with legal counsel secured by the informant upon request by the informant before the informant agrees to perform any activities as a confidential informant; provided, however, that the informant does not have the right to a publicly funded legal counsel.
  - 1. A controlled buy is the purchase or attempted purchase of contraband, controlled substances, or other items material to a criminal investigation from a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.

2. A controlled sale is the sale or attempted sale of contraband, controlled substances, or other items material to a criminal investigation to a target offender that is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of the confidential informant.
3. A target offender is the person whom law enforcement personnel suspects will be implicated by the activities of a confidential informant.
  - n. Unit supervisors are responsible for the review and approval of informant documentation.
3. Agency members are required to make individual assessments of each prospective informant prior to utilizing the informant for official use. At a minimum, the following circumstances must be considered:
  - a. Person's age and maturity.
  - b. The risk of the person to adversely affect a present or potential investigation/prosecution.
  - c. Effect upon agency efforts that "disclosure of the person's cooperation in the community" may have.
  - d. Whether the person is a substance abuser or has a history of substance abuse or is in a court-supervised drug treatment program.
  - e. The risk of physical harm to the informant, his/her family, or close associates by reason of work as an informant or the disclosure of status as an informant in the community.
  - f. Whether there is any indication of emotional instability, unreliability, or lying.
  - g. The informant's criminal history or prior criminal record.
  - h. Whether the use of the person is important to or vital to the success of the investigation.

#### B. Files

1. The original/master file of informants, with security and access restrictions, will be maintained within the Vice and Narcotics Bureau for all informants utilized by the agency. -
2. The master file will be used to ensure that informants are not utilized unknowingly by more than one section of the agency or by an outside agency. The master file will also serve as a "de-confliction" source before informants are utilized. Following receipt of all documentation required to complete the master file (to include the criminal history, informant identification and money vouchers if used, informant agreement, and initial debriefing statement), an identifying number will be assigned to each informant by the VIN supervisor or the VIN Captain. No deputy, detective, or unit is authorized to use a confidential informant until such time as the master record is complete, an informant number assigned as indicated, and the deputy/detective/unit has been advised by the VIN supervisor or the VIN Captain that the informant file is complete and the informant is cleared for active use.
3. Access to the master file is restricted to authorized personnel. The VIN supervisor will update informant files on a monthly basis, and will report any deficiencies to the VIN Captain.

4. Each division/unit supervisor shall require the following to maintain accurate informant activity files:
  - a. Validate the integrity of information obtained from the informant prior to using the informant.
  - b. Ensure documentation is complete.
  - c. Take reasonable precaution to prevent disclosure unless agreed otherwise.
  - d. Ensure that the files are updated as to the reliability or credibility of the informant.
  - e. Ensure that members refer to informants only by the informant number when preparing correspondence or reports.
  - f. Maintain confidentiality and security of informant records.
  - g. Record retention shall be maintained in accordance with agency directives, state administrative procedures and applicable law. On an annual basis, the VIN Captain will review all informant files to determine files eligible for destruction in accordance with state administrative procedures and applicable law. Destruction of files will be coordinated through the Sheriff's Office Records Division custodian.
  - h. When an agent/deputy determines the informant is no longer useful, the detective/deputy will "deactivate" the informant and indicate if the informant is suitable for future use. This information will be forwarded to the VIN Supervisor so that the master file can be updated.
  - i. Make appropriate entry on the informant log when an informant file is accessed.
5. The VIN Supervisor will maintain a log of all prospective confidential informants who are deemed to be unsatisfactory for use by the agency as well as all previous informants who have been terminated for reasons such as lack of credibility, continued criminal conduct, failure to abide by the informant agreement, etc. This record will be co-located with the active confidential informant files for cross-referencing and future de-confliction. In the event that any deputy/detective/unit wishes to utilize a previously declined or previously terminated confidential informant for any reason, that request must be approved in writing by the requesting agent's respective command.

C. Informant Control

1. The deputy/detective documenting the informant will generally be considered the controlling deputy/detective and shall designate an alternate.
2. Deputies/ detectives shall not allow informants to take control of investigations or relationships. They shall not discuss pending enforcement actions, disclose or discuss sensitive equipment, tactics, or procedures with informants.
3. Deputies/ detectives should always be alert to the risk of being compromised by the informant. At least two persons will be present at all meetings with informants. They will monitor such meetings visually and/or by appropriate audio monitoring devices. Deputies/detectives should select the time, place, and method of any meeting.
4. Deputies/ detectives shall not participate in social or off-duty relationships with their active informants. Deputies/ detectives shall not use informants with whom they have an existing social relationship.
5. Deputies/ detectives shall continually check the accuracy of an informant's information and assess the informant's intent when possible.

6. No criminal activity by an informant will be tolerated and all informants will be so advised.
  7. Deputies/ detectives are to ensure that informants are not carrying firearms while involved in informant activity.
  8. Deputies/ detectives shall terminate relationships with informants for violating the provisions of this directive.
- D. Juveniles
1. Juvenile informants may be used only with supervisory (sergeant or above) approval and are subject to the same documentation and control procedures as adult informants. Written authorization from a parent or guardian is required.
- E. Payments
1. In order to expend investigative funds to pay confidential informants:
    - a. The informant must be documented.
    - b. The informant must sign an acknowledgment of receipt of the payment.
    - c. The informant payment must be witnessed by another agency member and verified via their signatures.
  2. The successful prosecution of defendants in cases involving paid informants dictates informant payment procedures to include:
    - a. Payment must not be made on a contingency basis. For example, the payment cannot be promised as a percentage of assets forfeited during an investigation.
    - b. Compensation shall not be extravagant; any compensation above \$200.00 must be discussed with and approved by the unit supervisor.
    - c. Payments shall not be contingent on successful prosecution.
    - d. The informant shall not be offered unreasonable incentives to target specific individuals.
- F. Priority
1. The highest priority in operational decisions and actions relative to the use of informants shall be the preservation of the safety of informants, law enforcement personnel of both this agency and other law enforcement agencies, target offenders and the public.
- G. Training
1. All investigative personnel involved in the use or recruitment of confidential informants will be trained in the requirements of this procedure and provisions of Florida Statute 914.28 within 90 days of assignment. This training is the responsibility of the individual unit supervisor, who will document the training and forward to Training Unit for retention in the employee's training record.
- H. Review of Policy
1. The Sheriff or his designee shall complete a documented annual administrative review of actual confidential informant practices by the Agency to ensure conformity with these policies and procedures as well as applicable Florida law (Florida Statute 914.28).
- I. This policy is only applicable to the criteria set forth by this procedure. Information obtained by "casual sources" will not be documented under this section. "Casual sources" are those individuals that provide investigative leads, but do not participate in any "regular" patterns of reporting information. A "casual source" includes known or past criminals, associates of criminals, prostitutes, or an anonymous caller. The reliability of the information is always questionable and must be verified by the

detective /deputy. Should investigative funds be expended, a detective /deputy **MUST** follow the appropriate accounting practices for proper documentation of these funds. It will be the responsibility of the detective /deputy supervisor to approve expenditures and determine if the source of information meets these criteria of the policy.

## **DEFINITIONS**

**CASUAL SOURCES** – Persons who do not qualify for classification as informants because they provide limited, one-time information and have no further contact with law enforcement.

**COMPENSATION (Informants)** – The measurement of informant payments made by comparing the payment to the amount of work the informant performed, risks involved, and the willingness of the informant to remain involved in judicial proceedings.

**INFORMANTS** – Individuals who actively participate in investigations, who are or have been involved in criminal activity or closely associate with those involved in such activity. Informants are further defined as follows:

- Persons who are paid for providing assistance, except “casual sources.”
- Persons who are participating in a Substantial Assistance Agreement, contractual or otherwise, with the approval of the State Attorney’s Office and/or the United States Attorney’s Office.
- Persons who are assisting law enforcement without receipt of any tangible consideration.

## **REFERENCES**

State/Federal Regulations:  
Florida Statute 914.28

CFA:  
CFA Standard 15.02 and 15.03M

Forms:  
500.43-01 Confidential Source Packet

Other Policy/ Procedure References:  
500.44 Investigative Funds